

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
THOMASVILLE DIVISION**

RICHARD JAMES LAMONS,

Petitioner,

v.

ROSE WILLIAMS, Warden,

Respondent.

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Civil Action No. 6:05-cv-09(HL)

ORDER

This matter is before the Court on the Motion for Reconsideration [doc 13] of Petitioner, Richard James Lamons. After consideration of the Motion, the same is hereby granted, as more fully set forth below.

On February 16, 2005, Lamons filed a petition under 28 U.S.C. § 2254. At the same time, he filed a motion to proceed *in forma pauperis*. By order entered February 18, 2005, the United States Magistrate Judge to whom the case was referred denied Lamons' motion to proceed *in forma pauperis* and directed Lamons to pay the filing fee of \$5.00. On May 17, 2005, believing that Lamons had failed to pay the filing fee as directed, the Magistrate Judge dismissed Lamons' petition for failure to comply with the order of February 18, 2005. Final judgment was subsequently entered.

On May 24, 2005, Lamons filed a document styled as "Objection of Petitioner Richard James Lamons to Report and Recommendation of May 17, 2005." Because no Report and Recommendation had been entered, the docket clerk docketed the "Objection" as a Motion

for Reconsideration. With the Motion for Reconsideration, Lamons attached a copy of a receipt showing that he had paid the filing fee for his petition on March 11, 2005. Due to an oversight, payment of the filing fee was never made a part of the record. Lamons thus asserts that he has not failed to comply with the directives of the Magistrate Judge and his case should not be dismissed.

In view of the fact that Lamons did indeed pay the filing fee as directed by the Magistrate Judge, dismissal of his case for failure to comply with the Magistrate Judge's Order was error. Accordingly, the Magistrate Judge's Order of May 17, 2005, and the Judgment entered therefrom, are hereby vacated. This matter is hereby recommitted to the Magistrate Judge for such further proceedings as may be appropriate under 28 U.S.C. § 636 and the Rules Governing Section 2254 Cases in the United States District Courts.

SO ORDERED, this the 1st day of June, 2005.

s/ Hugh Lawson
HUGH LAWSON, JUDGE

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